

REMARKS

Status of the Claims

Claims 1-5, 7-10, 12-15, 1722, 25-27, 29-32 and 34-43 and 46-47 are pending; claim 1 is amended; claims 6, 11, 16, 23-24, 28, 33 and 44-45 are canceled; and new claim 48 is added.

Claim 1 has been amended to recite a preparation consisting of an antibody directed against a tumor-associated antigen and at least one pharmaceutically effective carrier selected from the group consisting of an auxiliary substance, a buffer, a salt and a preservative. Support for the "preparation" aspect of the amendment is found, for instance, in the specification at page 8, lines 4-22 of the specification. Support for the "consisting of" aspect of the amendment is found, for instance, at page 9, lines 36-39 of the specification. Support for the "pharmaceutically acceptable carrier" aspect of the amendment is found, for instance, at page 14, lines 34-36 of the specification.

Claim 1 as also been amended to improve grammar.

Claims 1 and 29 have been amended so that they recite that the antibody is administered within 4 hours prior to surgery and during surgery.

New claim 47 recites the subject matter of claim 1, and further specifies that the preparation consists of an adjuvant, support for which is found at page 16, lines 4-22 of the specification.

No new matter has been added.

Summary of Examiner Interview

Applicants and Applicants' representatives thank the Examiners for the courtesies extended in the January 31, 2008 interview. In the interview, the prior art rejections were discussed, but no agreement was reached.

The Prior Art Rejections

In the Office Action dated August 13, 2008, the Examiner imposed prior art rejections over Goldenberg et al. and Ferrari et al. (Office Action, pages 14-25). Applicants respectfully traverse.

As indicated above, Applicants have amended the claims so that they recite administering to a patient a preparation consisting of an anti-body directed against a tumor associated antigen, a pharmaceutically acceptable carrier and/or an adjuvant.

Applicants point out that both the Goldenberg et al. reference teaches the administration of fluorescently labeled antibodies to cancer patients and that Ferrari et al. teaches the administration of antibodies either conjugated to microdevices or packaged inside microdevices.

Applicants submit that, in view of the instant amendments, the fluorescently labeled antibodies taught by Goldenberg et al. and the antibodies conjugated to or packaged in microdevices taught by Ferrari et al. are outside of the scope of the present claims. Accordingly, the instant claims are not anticipated by Goldenberg et al. or Ferrari et al.; and the instant claims are non-obvious because even the combination of Goldengerg et al. and Ferrari et al. does not teach the instantly administered preparations.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request immediate allowance of this application, the claims of which define subject matter that meet all statutory patentability requirements.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson, Registration No. 30,330 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: February 27, 2008

Respectfully submitted,

By: 

Leonard R. Svensson
Registration No.: 30,330
BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Drive
Suite 260
San Diego, California 92130
(858) 792-8855
Attorney for Applicant

Attachments: U.S. 60/343,448